

## REMARKS

In the non-final office action mailed January 22, 2007, claims 1-48 were pending. Claims 42-48 were withdrawn from consideration. Claims 1, 3, 9, 17-20, 22, 26, and 37-40 stand rejected and claims 2, 4-8, 10-16, 21, 23-25, 27-36, and 41 were indicated to be allowable if rewritten in independent form incorporating the base claim and any intervening claims. With this Amendment, claims 1, 11, 19, 27, 29, and 38 have been amended, claims 2, 28 and 41-48 have been cancelled without out prejudice for possible submission in a continuing application, and new claims 49-52 have been added. In view of the following remarks and amendments, reconsideration and allowance of the subject application are hereby requested.

### Election/Restrictions

Applicants confirm their telephonic election on January 10, 2007, of Group 1, claims 1-41, without traverse. With this Amendment, Applicants have cancelled currently withdrawn claims 42-48 without prejudice for possible later filing in a continuing application.

### Drawings/Specification

The Examiner objected to the drawings because reference character “56” was used to designate both a first hand-hole and arrows, reference character “37” was used to designate both a second lateral extension and a passage, and because reference characters “60” and “101” were not used in the specification. The Applicants have submitted herewith replacement Figures 1, 2 and 4 and have amended the specification to address the objections to the drawings.

The element “A first hand-hole 56” has been amended in both drawing sheets 1, 2 and 4 and the specification to reference character “51.” No new matter has been added by this amendment.

The element “a passage 37” has been amended in both drawing sheet 4 and the specification to reference character “44.” No new matter has been added by this amendment.

With regards to reference character “101”, drawing sheet 1 has been amended to change reference character “101” to reference character “102.” No new matter has been added by this amendment.

With regards to the Examiner's objection of reference number "60", the specification at paragraph [0036] has been amended to include description of reference number "60." The amendment to the specification is fully supported by at least drawing sheets 1 and 4 and the amendment does not constitute new matter.

Based on the amendments to the drawings and specification, withdrawal of the objection to the drawings and specificaiton is respectfully requested.

**Claim Rejections**

Claims 1, 9, 17-20, 26, and 37-40 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,758,159 to Weissman (hereafter "Weissman"), and claims 3 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weissman in view of U.S. Patent No. 5,431,658 to Moskovich (hereafter "Moskovich").

In this response, claim 1 has been amended to include the features recited in claim 2 and is allowable as indicated in the Office Action. Claim 2 has been cancelled. Dependent claims 3-10 and 12-18 depend from claim 1 or intervening claims and are believed to be allowable for at least the same reasons as independent claim 1.

Claim 11 has been rewritten in independent form to include the features of claim 1 and is allowable as indicated in the Office Action.

Claim 19 has been amended to include the features recited in claim 28 and is allowable as indicated in the Office Action. Claim 29 has been amended to maintain consistency with amended claim 19, and claim 28 has been cancelled. Dependent claims 20-26 and 29-36 depend from claim 19 or intervening claims and are believed to be allowable for at least the same reasons as independent claim 19.

Claim 27 has been rewritten in independent form to include the features of claim 19 and is allowable as indicated in the Office Action.

Claim 38 has been amended to include the features recited in claim 41 and is allowable as indicated in the Office Action. Claim 41 has been cancelled. Dependent claims 39 and 40 depend from claim 38 and are also allowable.

New Claims

With this amendment, new claims 49-52 have been added and are submitted to be fully supported by the subject application. New independent claim 49 recites, among other elements and features, first and second guide members each including a width between first and second sides, the width being greater than a width of an implant to be positioned along said guide surfaces. The prior art of record fails to disclose, teach or suggest such features. Therefore, independent claim 49 is submitted to be in condition for allowance. Claims 50-52 depend either directly or indirectly from independent claim 49 and are also submitted to be in condition for allowance.

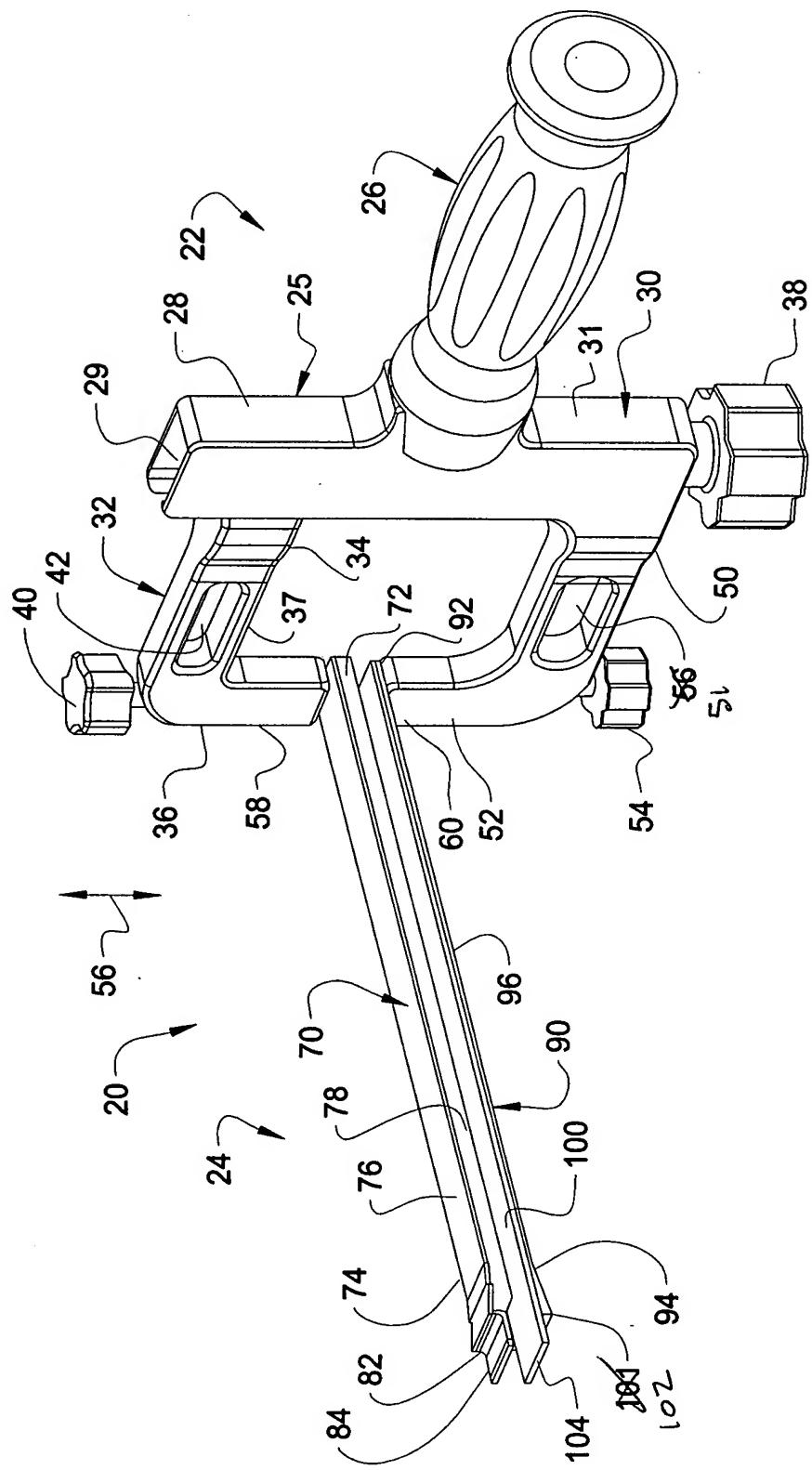
CONCLUSION

It is respectfully submitted that the present application including claims 1, 3-27, 29-40 and 49-52 is in condition for allowance. Reconsideration of the present application in view of the foregoing amendments and remarks is respectfully requested. The Examiner is welcome to contact the undersigned to resolve any outstanding issues with regard to the present application.

Respectfully submitted,

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**INSERTION DEVICE AND TECHNIQUES FOR  
ORTHOPAEDIC IMPLANTS**  
Serial No. 10/680,358; Filed October 7, 2003  
Inventor(s): Frank J. Schwab  
Contact: Douglas A. Collier (317) 238-6333  
**ANNOTATED SHEET (1 of 3)**



**Fig. 1**

INSERTION DEVICE AND TECHNIQUES FOR  
ORTHOPAEDIC IMPLANTS  
Serial No. 10/680,358; Filed October 7, 2003  
Inventor(s): Frank J. Schwab  
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ANNOTATED SHEET (2 of 3)

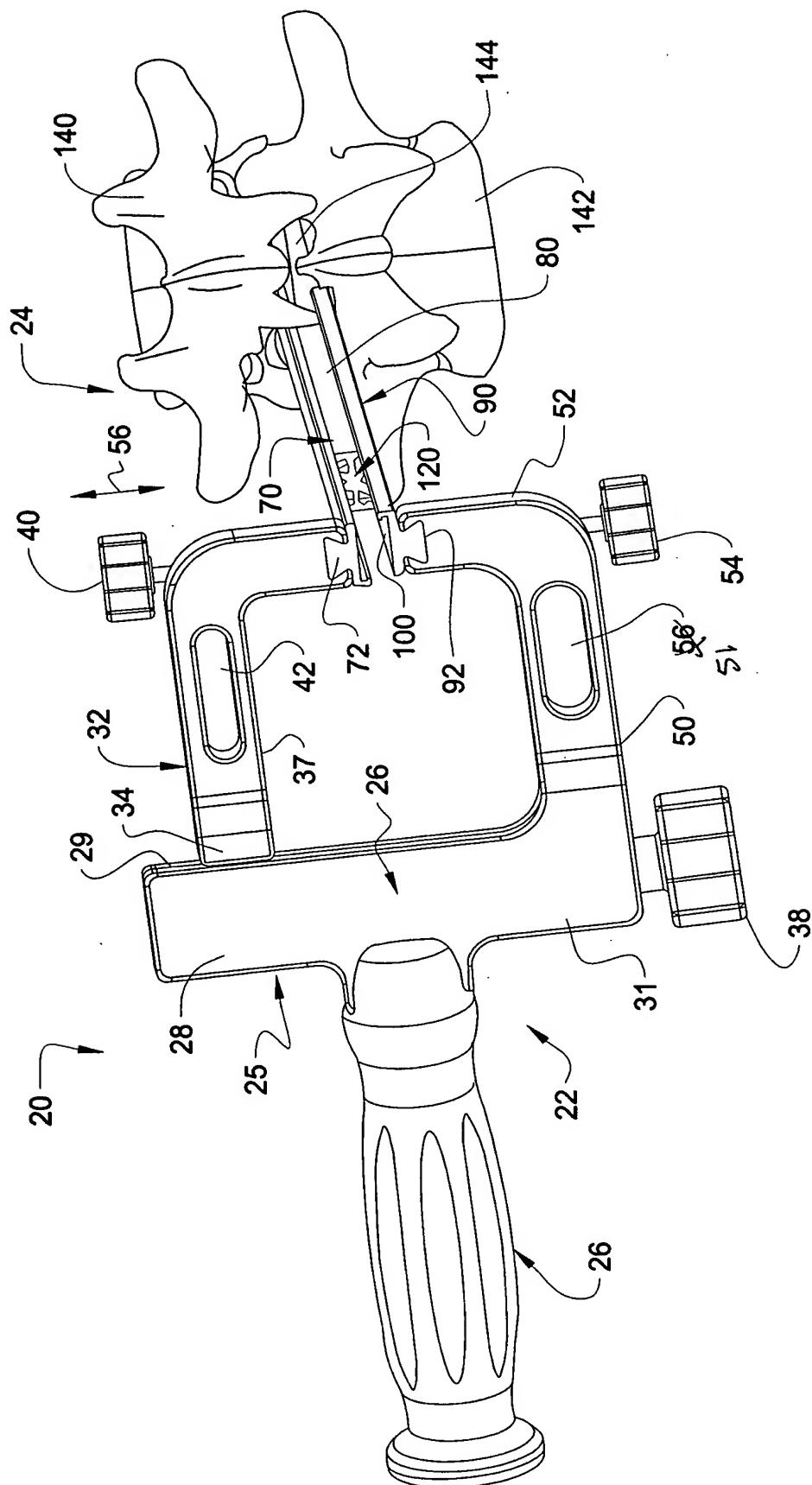


Fig. 2